

INDIANA DEPARTMENT OF COMMERCE

**Controller's Office
Grants Management Section
Indiana Department of Commerce
One North Capitol, Suite 600
Indianapolis, Indiana 46204-2288**

**PRE-CONSTRUCTION
CONFERENCE
PACKET**

Revised 12/98

Community Block Grant Program

GENERAL INFORMATION

1. Has the Grantee received a "Release of Funds and Authorization to Incur Cost" letter from the Indiana Department of Commerce?

Yes or No

Date of ROF Letter: _____

2. A copy of the federal wage decision applicable to this project and the "Federal Labor Standards Provisions" (Exhibit G) must be physically attached to the contract that the grantee signs with the contractor. Furthermore, these two documents must be physically attached to all subcontracts entered into for this project. Do all parties understand this requirement?

Yes or No

3. Has the General Contractor, hereinafter referred to as the "Contractor" previously been awarded a contract or subcontract for a federally funded project?

Yes or No

4. Project name and location of past or current federally funded projects awarded to Contractor:

5. Is the Contractor familiar with the requirements associated with federally funded projects?

Yes or No

6. Does the Contractor understand and assume the responsibility of communicating all requirements to all subcontractors employed on this project, including second and third tier subcontractors, independent subcontractors, self-employed owners, and all other entities?

Yes or No

7. Does the Contractor understand that the grantee shall withhold funds from the general contractor if *it or any of its subcontractors* fail to comply with all applicable requirements on this federal project until such requirements are complied with?

Yes or No

8. Provide name of all known subcontractors on this project and type of work to be performed:

CIVIL RIGHTS

Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color or national origin in any “program or activity receiving federal financial assistance”. Discrimination is not defined in the Civil Rights Act or in any of the federal agencies’ title VI regulations. However federal agencies have formulated a list of prohibited acts that provide a definitional framework for discrimination which is not to be considered as all inclusive. Grantees and contractors are prohibited from discriminating on the basis of race, color or national origin by:

- denying a person any service, financial aid or benefit extended under a program;
- providing any service, aid or benefit to a person that is different in kind or manner from that provided to others under the program;
- subjecting a person to segregation or other discriminatory treatment in any manner related to the receipt or non-receipt of the service, aid or benefit;
- restricting a person in any way in enjoying services, facilities or any other advantage, privilege, property, or benefit provided to others under the program;
- treating a person differently from others in determining whether he or she satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that people must meet to receive any service, aid or benefit;
- denying or affording a person an opportunity to participate in a program (including the opportunity to participate as a grantee, subgrantee or contractor) in a way that is different from that afforded others in the program; or
- denying a person the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.

Title VII of the Civil Rights Act of 1964 (as amended by the Equal Employment Opportunity Act of 1972)

Title VII prohibits discrimination in hiring, promotion, and other employment policies on the basis of sex.

Age Discrimination Act of 1975

The Age Discrimination Act generally prohibits the exclusion of any person on the basis of age from participating in any program or activity receiving federal financial assistance. It further provides that no person shall be denied the benefits of or be subjected to discrimination under any such program or activity on the basis of age.

Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of disability in all federally assisted programs and activities. It mandates that all recipients of federal financial assistance review and, if necessary, modify their programs and activities so that discrimination based on disability is

eliminated. Section 504 requires recipients of federal funds to analyze and make any needed changes in three general areas of operation: programs and activities, facilities, and employment. Programs and activities operated by a federal grantee must be evaluated to determine whether disabled people are afforded accessibility to them. Facilities must be evaluated to determine the degree to which physical obstacles prohibit full participation by disabled people, and if so, what modifications are needed to achieve accessibility. When new structures are built or existing ones are altered or renovated, they must conform with technical standards for physical accessibility. Further, all employment principles, policies, practices, and procedures must be evaluated to make certain that discrimination based on disability does not exist in the grantee's employment function. In addition, accommodations must be made to the known physical and mental limitations of otherwise qualified disabled people in, or those seeking entrance to, the grantee's work force.

Section 503 of the Rehabilitation Act of 1973

Section 503 of the Rehabilitation Act of 1973, as amended, requires federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified disabled people. Under Section 503, the following clause must appear in all federal contracts and subcontracts of \$10,000 or more:

(a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees to comply with the rules, regulations, and relevant orders of the secretary of labor issued pursuant to the act.

(c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the secretary of labor issued pursuant to the act.

(d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the secretary issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance (41 CFI 60-741.4.4).

In addition to these contract provisions, an affirmative action program must be prepared and maintained by all contractors with 50 or more employees and one or more federal contracts of \$50,000 or more.

Executive Order 11246 as amended

The purpose of Executive Order 11246 is for the promotion and insuring of equal opportunity for all persons, without regard to race, color, religion, sex, or national origin, employed or seeking employment with Government contractors or with contractors performing under federally assisted construction contracts.

Equal Opportunity Clause

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of 9/24/65, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of 9/24/65, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of 9/25/65, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of 9/24/65, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of 9/24/65, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Civil Rights Officer will receive two EEO posters which summarizes the Federal laws prohibiting job discrimination based on race, color, sex, national origin, religion, age, equal pay and disability. It will be the responsibility of the Civil Rights Officer to assure the recipient, contractor and subcontractor, each display these posters in a conspicuous location in the workplace where notices to applicants and employees are customarily posted. It will be the responsibility of the Civil Rights Officer to assure that solicitations or advertisements state expressly that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

Employer Information Report (EEO-1)

All contractors and subcontractors awarded a federal contract or subcontract in excess of \$50,000, and having more than 50 employees, must submit an annual EEO-1 report. In order to obtain an EEO-1 application, all applicable contractors and subcontractors should complete the "Request for EEO-1 Report", (Exhibit A) and forward to the following address:

**Joint Reporting Committee
P. O. Box 779
Norfolk, VA 23501
Phone: (804) 461-1213**

Each contractor who has 50 or more employees and has a contract of \$50,000 or more are required to develop a written affirmative action compliance program for each of its establishments. Each contractor shall require each subcontractor who has 50 or more employees and has a subcontract of \$50,000 or more to do the same. It will be the responsibility of the Civil Rights Officer to assure the Department of Commerce receives a copy of the written affirmative action compliance.

Employment and Contracting Opportunities

Grant recipients shall comply with Executive Order 11246, as amended, by contracting with small and minority firms, women's business enterprise and labor surplus area firms. The grant recipient will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Recipients of CDBG funds shall be required to maintain documentation supporting their "*best efforts*" to achieve the Department's goal of 10 percent minority and/or women business utilization participation on each CDBG funded project. The Department defines for this program a minority or women owned business enterprise (MBE/WBE) that has been established for one year and is 51 percent owned, operated and controlled by minorities or women. Corporations or partnerships formed merely to qualify as an MBE or WBE for purposes of this program will not be considered as such. The Department only recognizes minority or women owned firms for this program who are either certified or registered with the Indiana Department of Administration's Division of Minority Business. In order to document that recipients have made their "*best efforts*" to achieve the 10 percent goal, the following steps shall include:

The solicitation or advertisement should include language notifying potential bidders of the Department's 10 percent minority and women business enterprise participation goal on the project. The Civil Rights Office will submit a copy of the solicitation or advertisement to the Department of Commerce's, Civil Rights Officer.

Contact the Department's Civil Rights Officer for a referral list of firms in the categories of work needed for the project, including, but not limited to, professional services, supplies and construction services.

Contact at least two (2) MBE/WBE firms from the referral list, notifying them of the impending bidding opportunities and how to participate.

Section 3
Housing and Urban Development Act of 1968

The purpose of Section 3 of the HUD Act of 1968 requires that recipients of HUD funds (and their contractors and subcontractors) provide jobs and other economic opportunities to low-income persons. Section 3 helps create employment for low-income persons and provides contracting opportunities for businesses that are owned by low-income people or that provide employment to low-income people. Employment opportunities available under Section 3 include accounting, purchasing, word processing, appliance repair, carpet installation, landscaping, manufacturing, carpentry and catering.

Recipients of CDBG funds will be required to track their project work force performance, and project area business utilization for contractors and subcontractors relative to the hiring and training of low and moderate income persons and the use of local businesses. The CDBG project service area for Section 3 compliance will be the nonmetropolitan county. If a recipient receives \$200,000 of assistance for housing

and community development assistance and assistance for rehab or new construction or other public construction, Section 3 compliance applies to the whole project. If contractors and subcontractors receive contracts of \$100,000 they will be required to apply Section 3 to the greatest extent feasible. It will be the responsibility of the designated Civil Rights Office to make sure the recipient completes and forwards to the Department of Commerce the “Section 3: Economic Opportunities for Low and Very Low Income Persons” (Exhibit B) prior to project completion. Contractors and sub-contractors are encouraged to train and employ low-income residents of the service area where Section 3 assistance will be expended to the *“greatest extent feasible.”*

Recipients of Federal assistance are encouraged to give employment and training preference to low-income residents of the service area covered by Section 3. Recipients are encouraged to utilize area businesses in the service area where Section 3 assistance will be expended. A Section 3 business means a business that is 51 percent or more owned by Section 3 residents. If a recipient awards a contract for the purchase of supplies and materials to a business within the Section 3 service area, this does not constitute a Section 3 contract. In the event the contract for materials includes the installation of the materials, such as the purchase and installation of a furnace, this would be a Section 3 covered contract. It will be the responsibility of the designated Civil Rights Officer for the project to assure all Section 3 covered contracts shall include the following Section 3 clause:

Addendum to Contract dated _____, between _____, and _____ (Contractor), (collectively, “The Parties”).

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor’s obligations under 24 CFR part 135.

F. Noncompliance with HUD’s regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covering housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian

organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Section 109

Housing and Urban Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title.

OFCCP Subcontract Notification

41-CFR Part 60-4 provides that if the contractor enters into a contract over \$10,000 with a subcontractor, each subcontractor will be required to complete the "OFCCP Subcontractor Notification" (Exhibit C) and forward it to:

**U. S. Department of Labor
Office of Federal Contract Compliance Programs
429 North Pennsylvania Street
Suite 308
Indianapolis, Indiana 46204
(317) 226-5860**

The contractor is responsible for ensuring that this form is properly completed and forwarded to the above address. A copy of this report should be forwarded to the Grantee's Civil Rights Officer and kept in the project file.

Affirmative Action Program/Plan

All contractors or subcontractors awarded a federal contract or subcontract in excess of \$50,000, and having more than 50 employees, must have an Affirmative Action Plan established in writing and on file in its place of business. Failure to have an Affirmative Action Program may result in sanctions established under Section 209 (a) of Executive Order 11246. Said Affirmative Action Plan shall include the contractor's or subcontractor's table of job classifications, the number of minorities and women in said classifications, and an analysis of minority representation and hiring practices. A copy of said plan shall be forwarded to the Indiana Department of Commerce, Grants Management Office.

The State of Indiana has established a ten percent goal of the grant's dollar amount which should be subcontracted out to construction firms owned by minorities or women, or by firms serving in the capacity of a supplier, material provider, consultant, architect or engineer. In order to ensure that the contractor and grantee have made a good faith effort to reach this ten percent goal, they are required to provide the Grantee's Civil Rights Officer documentation of their efforts to meet the 10% goal, prior to the start of construction.

Title III

Americans with Disabilities Act of 1990

Title III prohibits discrimination based on "disability" by private entities and places of public accommodation; requires that all new places of public accommodation and commercial facilities be designed and constructed so as to be readily accessible to and usable by persons with disabilities; and requires that examinations or courses related to licensing or certification for professional trade purposes be accessible to persons with disabilities.

Architectural Barriers Act of 1968

The purpose of this act is to assure all new federally constructed, leased or financed buildings and facilities, as well as buildings assigned for public use, must be designed, constructed and altered so as to be accessible to and usable by persons with physical disabilities. The Architectural Barriers Act relates only to physical access of certain covered buildings--housing and other buildings, and in terms of HUD, the ABA covers HUD's public housing program and the CDBG program as of December 1989.

IDOC requires a recipient of CDBG funds to certify the project meets the minimum requirements of the Act for accessibility, and the facility is usable. Regardless of the type of CDBG project undertaken by a recipient, they will be required to complete the "Certification of Accessibility" (Exhibit D) and submit a copy to the Department's Civil Rights Officer prior to the start of project construction.

Certification of Nonsegregated Facilities (Over \$10,000)

By the submission of this bid, the bidder, offeror, applicant or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that under his/her control, where segregated facilities are maintained. He/she certifies further that he/she will not maintain or provide for employment segregated facilities at any of his/her establishments, and he/she will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offeror, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certification from proposed subcontractors prior to the awards of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that he/she will retain such certifications in his/her files; and that he/she will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

Other Requirements

The contractor must display the Civil Rights posters on the project in a location accessible to all employees, regardless of the type of construction project. The Fair Housing posters must be displayed on the project site if the project is a housing project.

Are there any questions regarding Equal Employment Opportunity and or Civil Rights Requirements?

_____ Yes _____ No

LABOR STANDARDS

A Contractor who enters into a construction contract that is funded in whole or in part with federal funds is required to comply with federal labor standards regulations as follow:

1. The Davis-Bacon Act (DBA)

The Davis-Bacon Act requires the payment of prevailing wage rates, which are determined by the United States Department of Labor, to all laborers and mechanics on Federal *construction projects* in excess of \$2,000 **except** on contracts for rehabilitation or new construction of a residential property that contains less than eight units.

Construction includes construction, alteration and/or repair, including painting and decorating, of public buildings or public works.

A *project* means one or more buildings containing similarly constructed units, the site(s) on which the building or buildings is located and any functionally related facilities. Multiple buildings will constitute a project only if they are bound together as a result of proximate location, common ownership, and common financing.

2. The Contract Work Hours and Safety Standards Act (CWHSSA)

CWHSSA requires time and one-half pay for overtime hours, (over 40 hours in any workweek), worked on the covered project. CWHSSA violations carry a liquidated damages penalty (\$10 per day per violation). Intentional violations of CWHSSA standards are considered a Federal criminal misdemeanor. While the CWHSSA does not apply to contracts of \$100,000 or less, overtime pay is still applicable under the Fair Labor Standards Act (FLSA).

3. The Copeland Act (Anti-Kickback Act)

The Copeland Act makes it a crime for anyone to require any laborer or mechanic employed on a Federal or Federally-assisted project to kickback any part of their wages. The Copeland Act also requires every employer, contractors and subcontractors, to submit weekly certified payroll reports.

4. The Fair Labor Standards Act (FLSA)

The FLSA contains Federal minimum wage rates and overtime requirements. These requirements generally apply to any labor performed and may be pre-empted by other Federal standards such as the DBA prevailing wage requirements and CWHSSA overtime provisions. Only the Department of Labor (DOL) has the authority to enforce FLSA. HUD will refer to the DOL any possible FLSA violations that are found on HUD projects.

5. Regulatory Provisions

The U. S. Department of Labor (DOL) has published rules and regulations corresponding to the Davis - Bacon Act, CWHSSA and Copeland Act administration and enforcement in the Code of Federal Regulations (CFR). These regulations can be found in Title 29 CFR Parts 1,3,5,6 and 7.

*U. S. DOL Regulations are available on-line on the World Wide Web at:
<http://www.dol.gov/dol/esa/public/regs/cfr/whdcfr.htm>.*

6. Construction Contract Provisions

Each contract subject to Federal Labor Standards requirements must contain contract provisions containing labor standards clauses and a Davis -Bacon wage decision. These documents are normally bound into the contract specifications.

7. The labor standards clauses. The labor standards clauses describe the responsibilities of the contractor concerning Davis -Bacon wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the contract administrator to enforce the Federal Labor Standards applicable to the project. HUD has standard forms that contain contract clauses. The HUD-4010, Federal Labor Standards Provisions, (Exhibit E) is used for CDBG projects.

8. Davis-Bacon Wage Decisions. The Davis-Bacon wage decision is a listing of various construction work classifications such as Carpenter, Plumber and Electrician, for example, and the minimum wage rates (plus fringe benefits) that people performing work in those classifications must be paid.

9. Responsibility of the Grantee.

The Grantee's Labor Standards Officer is responsible for the proper administration and enforcement of the Federal Labor Standards Provisions on contracts covered by Davis -Bacon requirements. This includes providing labor standards preconstruction advice, ensuring that the proper wage decision and contract clauses are incorporated into the construction contract, monitoring labor standards compliance by conducting interviews with construction workers at the job site and reviewing weekly certified payroll reports. The Grant Administrator's Labor Standards Officer also oversees any enforcement actions that may be required.

10. Responsibility of the Principal Contractor.

The principal contractor (also referred to as the **prime** or **general** contractor) is responsible for full compliance of ALL employers (the contractor, subcontractors and any lower-tier subcontractors) with the Labor Standards Provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, questions to, or from, or about subcontractors should always be channeled through the prime contractor.

The principal contractor is responsible for posting a copy of the wage decision, posters titled "Notice to All Employees", "IOSHA Safety and Health Protection on the Job" and "Employee Polygraph Protection Act" at the job site in a place that is easily accessible to all of the construction workers employed at the project and where the wage decision and posters won't be destroyed by wind or rain, etc. These posters may be obtained from the Labor Standards Officer.

No contractor or subcontractor may employ workers under the age of 16 years on this project.

11. Certified Payroll Reports.

Certified weekly payroll reports, WH-347, (Exhibit F) shall be submitted weekly by each contractor and subcontractor to demonstrate compliance with the labor standards requirements. The principal contractor is responsible for full compliance with regard to its own workforce *and* with regard to the compliance of every subcontractor. For this reason, all certified payroll reports and any related records are submitted to the Labor Standards Officer *through* the principal contractor.

Each weekly payroll shall be accompanied by a “Statement of Compliance”, WH-348, (Exhibit G) which shall be executed by the original signature of the principal executive of the contractor or subcontractor, or of a person authorized in writing by the principal executive. The falsification of either of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

Failure by any employer to submit the required records or to make them available, or to permit on-site employee interviews may, after written notice to the contractor, cause a suspension of any further payment, advance or guarantee of funds. In addition, failure to submit the records on request or to make them available may be grounds for debarment action pursuant to 29 CFR 5.12.

12. Contractor Certification.

The General Contractor shall complete and forward the completed “Contractor’s Certification” form (Exhibit H), signed by an authorized representative of the contractor, to the Grantee’s Labor Standards Officer, *before any work is performed on the project.*

13. Subcontractor Certification.

All subcontractors shall complete and forward the completed “Subcontractor’s Certification” form (Exhibit I), signed by an authorized representative of the contractor, to the Grantee’s Labor Standards Officer, *before any work is performed on the project.* It is the responsibility of the General Contractor to ensure compliance by all subcontractors, including second and third tier subcontractors, with this requirement.

14. Verification of Fringe Benefit Plan.

The Grantee’s Labor Standards Officer shall require the General Contractor and all subcontractors to provide verification of fringe benefit packages *before any work is performed on the project.*

15. Confidentiality.

The identity of any person providing information concerning the labor standards compliance of any contractor or subcontractor shall not be disclosed in any manner to anyone other than authorized local or federal officials *unless* written consent is provided in advance by such person. Additionally, any portions of a statement or written document provided by such person which would reveal the identity of the source shall not be disclosed without prior written consent. Disclosure of such statements and documents shall be governed by the provisions of the Freedom of Information Act and the Privacy Act of 1974.

16. Employee Interviews.

The General Contractor and all subcontractors shall cooperate with Grantee's Labor Standards Officer and/or project inspector who is responsible for conducting on-site interviews with laborers and mechanics, and recording the information gathered on form HUD-11, "Record of Employee Interview", (Exhibit J). On-site interviews shall be conducted to gather information from workers in various trades and from workers employed by different contractors and subcontractors.

- a. The number of on-site interviews shall be sufficient to establish the degree of compliance and to assist in identifying the nature and extent of any violations.
- b. Each employee interviewed shall be informed that the information given during the interview is confidential and that his/her identity will only be disclosed with the prior written consent of the employee.
- c. All employees working on the site of the project shall be made available during working hours for interview by authorized representatives. The interview shall be conducted on the premises at a place and for a duration that shall permit privacy for the employee and cause the least amount of disruption to the on-going work.

17. Payment of Restitution.

Where underpayments of wages have occurred, the employer shall be required to make restitution to the effected workers promptly and in the full amounts due, less permissible and authorized deductions.

The Labor Standards Officer shall promptly notify the principal contractor in writing of any underpayments disclosed in certified payroll report reviews. The notice shall describe the underpayments, instruct the contractor to compute the amounts of restitution due and to pay the additional wages directly to the employees, and provide instructions for documenting the restitution paid. The principal contractor shall be permitted 30 days in which to correct the underpayments. Note that the principal contractor is responsible for ensuring that restitution is paid. A subcontractor shall make the computations and restitution payments and furnish the required documentation through the principal contractor.

The contractor shall be required to report the restitution on a correction CPR which will reflect the period of time for which restitution is due (e.g. Payrolls #1 through #6 or a beginning date and ending date). The correction CPR shall list each employee to whom restitution is due and their work classification, the total number of work hours involved, the adjustment wage rate, the gross amount of restitution due, deductions and the net amount to be paid. A properly executed Statement of Compliance shall accompany the correction CPR.

Each employee who has received restitution shall sign the correction CPR as evidence of their receipt of the payment.

The Labor Standards Officer shall review the calculations of amounts of restitution due to ensure that full restitution was made. If any discrepancies are noted, the contractor shall be notified in writing and be required to make additional payments, evidenced on a supplemental correction CPR, within 30 days.

The amount of wages due to any employee who is entitled to restitution and is not paid shall be placed in an escrow account for unfound workers at the completion of the project.

If violations are not corrected within 30 days after notification to the principal contractor, the Labor Standards Officer may cause withholding from payments due to the contractor of any amount necessary to ensure the payment of restitution and, if applicable, to cover any liquidated damages computed for overtime violations pursuant to the CWHSSA. Only the amounts necessary to meet the contractor's liability shall be withheld.

Are there any questions regarding Labor Standards Requirements?

_____ Yes

_____ No

The Undersigned do hereby acknowledge

that on _____
(Date)

at a Pre-Construction Conference pertaining to the

_____,
(Project)

an explanation was given of requirements and regulations for construction
projects funded in whole or in part with Community Development Block
Grant Funds.

I understand the rules, procedures and requirements regarding a

construction contract between

_____ and
(Grantee)

_____.
(Contractor)

Signed: _____
Contractor's Representative

Dated: _____

Signed: _____
Grantee's Representative

Dated: _____

Signed: _____
Grant Administrator

Dated: _____